

CALIFORNIA COASTAL COMMISSION

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Hearing Date: January 11, 2000
Commission Action:

STAFF REPORT: APPEAL/SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Los Angeles

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-VEN-99-449

APPLICANT: City of Los Angeles Department of Recreation & Parks

AGENT: Kathleen Chan, Project Manager

PROJECT LOCATION: 1730 Ocean Front Walk, Venice, City of Los Angeles.

PROJECT DESCRIPTION: Appeal of City of Los Angeles approval of coastal development permit for demolition of the Venice Pavilion complex and restoration of the site to sandy beach and landscaped park with public recreation improvements.

APPELLANT: Pearl E. White, Oakwood Owners & Tenants Association

SUBSTANTIVE FILE DOCUMENTS:

1. City of Los Angeles Local Coastal Development Permit No. 99-005.
2. City of Los Angeles Mitigated Negative Declaration for Demolition of Venice Pavilion, SCH #99041126 (CEQA).
3. Venice Beach Pavilion Area Reuse Study, RRM Design Group, Nov. 25, 1998.
4. Venice Beach Ocean Front Walk Refurbishment Plan, RRM Design Group, Nov. 1995.
5. Coastal Development Permit Application No. 5-99-427 (City of LA/Venice Pavilion).

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **a substantial issue exists** with respect to the grounds on which the appeal has been filed for the following reason: The proposed project's conformance with the public access and recreation policies of the Coastal Act is a substantial issue. The motion to carry out the staff recommendation is on page five.

I. APPELLANT'S CONTENTIONS

Local Coastal Development Permit No. 99-005, approved by the Los Angeles Board of Zoning Appeals on November 12, 1999, has been appealed by Pearl E. White of the Oakwood Owners & Tenants Association (Exhibit #4). The grounds for the appeal are that the proposed demolition of the Venice Pavilion will reduce public access opportunities for economically disadvantaged persons of all ethnic backgrounds.

II. LOCAL GOVERNMENT ACTION

On October 7, 1999, City of Los Angeles City Zoning Administrator Sara Rodgers approved with conditions Local Coastal Development Permit No. 99-005 to permit the demolition of the Venice Pavilion complex, located seaward of Ocean Front Walk at the terminus of Windward Avenue, and the restoration of the project site to sandy beach and landscaped park with public recreation improvements (See Exhibits). The Zoning Administrator found that the proposed project would protect and enhance public access and recreation opportunities consistent with the Chapter 3 policies of the Coastal Act.

Pearl E. White of the Oakwood Owners & Tenants Association appealed Zoning Administrator's approval of the local coastal development permit to the Los Angeles Board of Zoning Appeals. The grounds for the appeal are that the proposed demolition of the Venice Pavilion will reduce the opportunities for economically disadvantaged persons of all ethnic backgrounds to access to the shoreline. The appellant contends that the Venice Pavilion should be renovated and used as a venue for programs and activities for economically disadvantaged of all ethnic backgrounds.

On November 9, 1999, the Board of Zoning Appeals held a public hearing for the appeal of Local Coastal Development Permit No. 99-005. On November 12, 1999, the Board of Zoning Appeals issued a determination rejecting the appeal and sustained the Zoning Administrator's approval of the local coastal development permit. The conditions of approval include a requirement to provide a commemorative display of graffiti that exists at the site which the City has identified as a cultural resource (Exhibit #5).

On November 15, 1999, the City's Notice of Final Local Action was received in the Commission's Long Beach office, and the Commission's required twenty working-day appeal period commenced. The appeal was received on December 10, 1999. The Commission's twenty working-day appeal period ended on December 15, 1999.

Because the proposed project is located in the City's and Commission's "Dual Permit Jurisdiction" area, the City has submitted a permit application to the Commission for the proposed development (See Section IV on page 4). The public hearings and actions for both this appeal and Coastal Development Permit application 5-99-427 have been combined and scheduled for concurrent action at the Commission's January 2000 meeting.

III. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program, a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval, or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in order to exercise its option to issue coastal development permits in 1978.

Sections 13302-13319 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows any action by local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act.

After a final local action on a coastal development permit, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission (Section 30602).

The appeal and local action are then analyzed to determine if a substantial issue exists as to the conformity of the project to Chapter 3 of the Coastal Act [Section 30625(b)(1)]. If the Commission finds substantial issue, the Commission holds a new public hearing to act on the coastal development permit as a de novo matter.

In this case, the Notice of Final Local Action was received on November 15, 1999, and the appeal was filed on December 10, 1999. Section 30621 of the Coastal Act states that the appeal hearing must be scheduled within 49 days of the receipt of a valid appeal unless the applicant waives the 49-day requirement. The 49th day after December 10, 1999 is January 28, 2000. The applicant does not wish to waive the 49-day requirement because it would like to obtain the necessary approvals and finish the proposed project prior to the 2000 summer season. The public hearing on the appeal is scheduled Commission action at its January 11-14, 2000 meeting in Santa Monica (within two miles of the project site).

At this point, the Commission may decide that the appellant's contentions raise no substantial issue of conformity with the Coastal Act, in which case the action of the local government stands, or the Commission may find that a substantial issue exists with the action of the local government if it finds that the proposed project may be inconsistent with the Chapter 3 policies of the Coastal Act of 1976. If the Commission finds substantial issue, then the hearing will be continued as a de novo permit request. Section 13321 specifies that de novo actions will be heard according to the procedures outlined in Section 13114 of the Code of Regulations.

IV. DUAL PERMIT AREA

The proposed development involves two separate types of coastal development permit jurisdiction. Section 30601 of the Coastal Act states:

Prior to certification of the Local Coastal Program and, where applicable, in addition to a permit from local government pursuant to subdivision (b) or (d) of Section 30600, a coastal development permit shall be obtained from the Commission for any of the following:

- (1) Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
- (2) Development not included within paragraph (1) located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream or within 300 feet of the top of the seaward face of any coastal bluff.
- (3) Any development which constitutes a major public works project or a major energy facility.

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that the development which receives a local coastal development permit also obtain a coastal development permit from the Coastal Commission. For projects in other areas, such as the Single Jurisdiction area, the City of Los Angeles local coastal development permit is the only coastal development permit required.

The proposed project is located between the sea and the first public road and within three hundred feet of the inland extent of the beach. Therefore, it is within the coastal zone area of the City of Los Angeles that has been designated in the City's permit program as the "Dual Permit Jurisdiction" area pursuant to Section 13307 of the California Code of Regulations.

In this case, if the Commission finds that a substantial issue exists in regards to the City's approval of the Local Coastal Development Permit No. 99-005, the subsequent de novo action for the proposed project will combine both the required local coastal development permit decision and the required Coastal Commission coastal development permit decision. The matter will not be referred back to the local government. On the other hand, if the Commission finds that no substantial issue exists in regards to the City's approval of the local coastal development permit, then the Commission will act on the required Coastal Commission coastal development permit as a separate agenda item (See Coastal Development Permit application 5-99-427).

In order to minimize duplication, Commission staff has combined the de novo permit action for this appeal and Coastal Development Permit application 5-99-427 into one staff report and one Commission hearing scheduled for January 11-14, 2000.

V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to the approval of the project with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to PRC Section 30625(b)(1).

MOTION: Staff recommends a **NO** vote on the following motion:

I move that the Commission determine that Appeal No. A-5-VEN-99-449 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

VI. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and History

The City of Los Angeles Department of Recreation and Parks proposes to demolish the Venice Pavilion complex located on the public beach seaward of Ocean Front Walk at the terminus of Windward Avenue (See Exhibits). The Venice Pavilion complex is a public park consisting of a 7,000 square foot auditorium, a concession building, a restroom building, outdoor game area, and an outdoor picnic area known as the "graffiti pit" (Exhibit #2).

The proposed project includes the restoration of the site to sandy beach and landscaped park with numerous public recreation improvements (Exhibit #3). A small amount of area will be converted to sandy beach, while the remainder will be hardscaped and landscaped with turf and palms. Two graffiti walls, five picnic tables and one barbecue unit are the existing features that the City proposes to retain within the restored public park. The existing beach bicycle path that passes through the site is proposed to be moved several feet inland as part of its realignment. The proposed new public improvements on the site of the Venice Pavilion complex include: an enlarged Windward Plaza, a children's playground (Exhibit #6), a public art sculpture (Exhibit #8), and a water feature. A one-story park administration office/police substation with a driveway and approximately sixteen parking spaces for City vehicles is proposed to be constructed next to the proposed children's playground (Exhibit #7). No commercial uses are proposed.

All of the proposed development is located landward of the mean high tide line. The abandoned oil well site (Damson Oil Site) and future skate path are not part of the currently proposed

project (Exhibit #3). The refurbishment of Windward Plaza and Ocean Front Walk, the pedestrian boardwalk located immediately inland of the project site, was approved by the Commission on May 13, 1997 [See Coastal Development Permit 5-96-176 (City of LA)]. The currently proposed demolition of the Venice Pavilion complex and the associated improvements were not a part of the original Ocean Front Walk refurbishment project approved pursuant to Coastal Development Permit 5-96-176.

The Venice Pavilion complex was constructed on the City-owned public beach in 1959 as an open-air amphitheater (1,200-person capacity) with a 3,000 square foot indoor arts and recreation center located on the lower level. City records state that the Pavilion was officially opened in 1961. In 1970, the City constructed a roof over the amphitheater in response to problems resulting from the damp marine climate. During the 1960's and 1970's the Pavilion served as a venue for concerts, plays, public meetings, art workshops, and diverse programs for seniors and children.

According to the City, public use of the Pavilion structure declined as it became less and less popular. Poor acoustics have been cited as one reason for the decline in use. Eventually, the City locked the doors and the Pavilion fell into a state of disrepair.

In 1981, 588 seats were installed in the auditorium in an attempt to make it more appealing for theatrical events. The attempt failed to generate interest and the Pavilion was closed once again. In 1983, the City Department of Recreation and Parks solicited proposals from non-profit agencies for a concession promoting recreational, educational, scientific or cultural use of the Pavilion. Twenty-seven proposals were received. None were accepted. Instead, the City modified the interior of the Pavilion in 1984 and reopened it for City recreation classes and programs. The City states that, due to lack of community interest in the programs, the Pavilion was closed once again.

The Pavilion has been closed to public use since 1984 due to lack of use and health and safety reasons. In another attempt to revitalize the Pavilion in 1995 the City solicited proposals to lease the Pavilion. Venice Arts Mecca, a non-profit community group, was awarded the opportunity to refurbish the facility to operate as an arts and community center. Venice Arts Mecca, however, failed to raise the required funds and was not able to implement its proposed arts and community center.

The most recent attempt to revitalize the Pavilion complex occurred in 1997 when the City initiated the nine-month Venice Beach Pavilion Reuse Study. The goal of the reuse study was to develop the facts about the site, weigh the options and ideas for reuse with the public, determine the cost and feasibility for each option, and to recommend a preferred reuse strategy reflecting the community's vision for the Pavilion complex. The nine-month Venice Beach Pavilion Reuse Study included three public workshops on March 12, 1998, May 23, 1998, and November 5, 1998.

The Venice Beach Pavilion Reuse Study finally concluded that: 1) the design of the Pavilion is not a suitable venue for performing arts, 2) spending an estimated \$3 million to restore the Pavilion is not acceptable, 3) the site should be cleared and redeveloped as a public park and beach, 4) the graffiti walls should be retained on the site as a cultural resource, 5) no commercial uses should be allowed at the site, and 6) the new public park should be community serving, open to all people, and should reflect art, youth, recreation and music. The City states that the currently proposed project is the direct outgrowth of the study.

B. Substantial Issue Analysis

As stated in Section III of this report, the grounds for an appeal of a coastal development permit issued by the local government prior to certification of its Local Coastal Program are the Chapter 3 policies of the Coastal Act. Any such local government coastal development permit may be appealed to the Commission. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act. In this case, staff has recommended that a substantial issue does exist.

The appellant contends that the proposed demolition of the Venice Pavilion will reduce public access opportunities for economically disadvantaged persons of all ethnic backgrounds. The appellant has implied that the Venice Pavilion should be renovated and used as a venue for programs and activities for economically disadvantaged persons of all ethnic backgrounds.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The issue of whether is the proposed redevelopment of a public facility on the beach is exclusionary is a very important and substantial issue. Section 30210 of the Coastal Act requires that maximum access and recreational opportunities shall be provided for all the people. Section 30213 of the Coastal Act requires that lower cost visitor and recreational facilities shall be protected. Because of the importance of the public access issue raised to by the appellant, the Commission should look at it the proposed project closely. The Commission will have the

opportunity to review and act on the proposed project at the subsequent de novo hearing and the concurrent hearing for Coastal Development Permit application 5-99-427.

The Commission shall ensure that the proposed project will protect lower cost recreational opportunities and provide maximum access for all the people as required by the Coastal Act. Therefore, the Commission finds that a substantial issue exists with respect to the proposed project's conformance the public access and recreation policies of the Coastal Act, and with the approval of Local Coastal Development Permit No. 99-005.

End/cp